

BOULDER CITY COUNCIL PROCEEDINGS

January 18, 2011

1. CALL TO ORDER AND ROLL CALL

Mayor Osborne called the regular January 18, 2011 council meeting to order at 6:06 p.m. in the Council Chambers.

Those present were: Mayor Osborne, Deputy Mayor Wilson and Council Members Ageton, Appelbaum, Becker, Cowles, Gray, Karakehian and Morzel.

Mayor Osborne thanked the Youth Opportunities Advisory Board for their work organizing the Martin Luther King Jr. Day community event.

Mayor Osborne announced that the annual recruitment for Boards and Commissions was in process. The deadline to apply was February 17, 2011.

2. PUBLIC PARTICIPATION and COUNCIL/STAFF RESPONSE – 6:08 p.m.

1. Seth Brigham sang a song in honor of father figures around the world dedicated to Martin Luther King and Bob Dylan, who wrote the song.
2. Steve Pomerance spoke to the city's work plan and suggested the city make every effort to get into a position to choose between Xcel and municipalization before putting anything on the ballot.
3. Sharon Hillman spoke to an issue she has with noise in her condo as her upstairs neighbors put in hardwood floors. She urged council to put something in place in its ordinances strengthening the "quiet enjoyment" clause.
4. Judd Golden spoke to the license plate recognition technology issue and urged council to consider his e-mailed comments regarding data mining.
5. Laurel Miller spoke to her extremely positive experience in the EnergySmart pilot program. Her experience made her proud and grateful to be a part of her community and that Boulder invests so much in these kinds of programs.
6. Bryce Isaacson with Western Disposal spoke to Western's participation in the EnergySmart program and endorsed the small building tune up program. He indicated initially, they started utilizing more energy. The small building tune up program was able to determine that the equipment was not properly installed, even after working with manufacturers. He strongly supported the program.
7. Steve Keenan suggested the economy wasn't bouncing back as fast as some people think it is. He suggested the city should do more to assist with individuals' basic services.
8. Joe McDonald spoke to item 6A, Boulder's Energy Future, and thanked council for its leadership. Local energy generation, local control over energy decisions and local economic green development is the message that needed to be sent. Renewables, better rates and system reliability are also important. He also suggested Boulder Housing Partners, DBI, the Chamber, Sierra Club and CU student/renters needed to be included as stakeholders.
9. Rob Smoke told a story of tradition and suggested fuel burning boats was just a tradition that contaminated our drinking water. He thought council's decision on Boulder Reservoir was still wrong.

10. Leslie Glustrom spoke to Boulder's Energy Future and thanked council and staff for its amazing work. She recommended careful oversight of the timeline and budget. Also, please ensure the people appointed to the technical committees are really able to commit the time to the process. She invited the community to an event on February 3 at 7pm at the West Senior Center for public input and energy ideas – the "Clean Energy Slam."
11. Kelly Moore with Flower of Life urged council to continue working to ensure the Flower of Life stayed open.
12. Elizabeth Allen urged Council to push hard on the energy future project and agreed with previous speakers' comments.
13. Tom Gillespie with Island LLC, a medical marijuana applicant, noted that he had missed the deadline due to a medical emergency and had been denied. He filed an appeal and asked Council to allow him to submit his application.

City Manager Response: - 6:50 p.m.

Regarding the comments from Tom Gillespie, City Manager Brautigam and City Attorney Tom Carr indicated that there was no role for Council currently and the matter was being handled judiciously.

City Attorney Response:

City Attorney Tom Carr spoke to the ACLU's language for the license plate recognition technology and suggested if Council were to adopt option B on consent item 3D that he would recommend incorporating the ACLU's language.

City Council Response:

Council Member Cowles suggested that council should protect the public space and take more control over public participation.

Council Member Morzel clarified with staff that they were keeping track of the EnergySmart testimonials.

3. **CONSENT AGENDA: - 6:56 p.m.**

- A. **CONSIDERATION OF A MOTION TO ACCEPT THE SUMMARY OF THE DECEMBER 21, 2010 STUDY SESSION ON BOULDER'S ENERGY FUTURE.**
- B. **CONSIDERATION OF A MOTION TO ADOPT AN EMERGENCY ORDINANCE AUTHORIZING THE ISSUANCE BY THE CITY OF BOULDER, COLORADO (ACTING THROUGH ITS WATER UTILITY ENTERPRISE AND SEWER UTILITY ENTERPRISE) OF IT'S WATER AND SEWER REVENUE REFUNDING BONDS, SERIES 2011, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$19,500,000, FOR THE PURPOSE OF PROVIDING FUNDS FOR THE ADVANCE REFUNDING OF THE CITY'S WATER AND SEWER REVENUE BONDS, SERIES 2001 AND PAYING THE COSTS OF ISSUANCE OF THE SERIES 2010 BONDS; PRESCRIBING THE FORM OF THE SERIES 2011 REFUNDING BONDS AND PROVIDING FOR THE SALE OF SAID SERIES 2011 REFUNDING BONDS; PROVIDING FOR THE PAYMENT AND REDEMPTION OF SAID SERIES 2011 REFUNDING BONDS FROM AND OUT OF GROSS INCOME DERIVED FROM THE MUNICIPAL SANITARY SEWER SYSTEM AND THE MUNICIPAL WATER UTILITY SYSTEM; PROVIDING OTHER DETAILS**

**AND APPROVING OTHER DOCUMENTS IN CONNECTION WITH SAID
SERIES 2011 REFUNDING BONDS; AND DECLARING AN EMERGENCY
AND PROVIDING THE EFFECTIVE DATE HEREOF.**

City Clerk Lewis indicated the bonds sold for \$18,335,000 at an interest rate of 2.8454%. The total savings over 11 years was \$1,321,991.

C. TWO ITEMS RELATED TO TREE PROTECTION:

- 1. FOURTH READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7712 AMENDING TITLES 4 AND 6, B.R.C. 1981 TO ESTABLISH REQUIREMENTS FOR CERTIFIED ARBORIST LICENSES AND OTHER REQUIREMENTS RELATED TO THE CUTTING, REMOVING, OR APPLYING OF PESTICIDES TO ANY TREE; AND**
- 2. THIRD READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7713 AMENDING TITLE 8, B.R.C. 1981 TO CREATE AN AFFIRMATIVE OBLIGATION OF ADJACENT PROPERTY OWNERS TO MAINTAIN STREET TREES AND TITLE 9, B.R.C. 1981 TO ESTABLISH TREE PROTECTION REQUIREMENTS IN THE SITE REVIEW, SUBDIVISION, AND LANDSCAPING STANDARDS.**

D. SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7778 AMENDING SECTION 5-7-4, "POSSESSION AND SALE BY MINORS UNLAWFUL," B.R.C. 1981, RELATING TO PRIVACY OF RECORDS, AND SECTION 7-4-74, "AUTOMATED ENFORCEMENT SYSTEMS," B.R.C. 1981, RELATING TO PROTECTION FROM DISCLOSURE IMAGES OBTAINED THROUGH AUTOMATED LICENSE PLATE RECOGNITION TECHNOLOGY, AND SETTING FORTH RELATED DETAILS.

E. SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7779 AMENDING SECTION 8-2-13, "DUTY TO KEEP SIDEWALKS CLEAR OF SNOW," B.R.C., 1981, AS AN EMERGENCY ORDINANCE.

F. SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7780 AMENDING CHAPTER 6-14, "MEDICAL MARIJUANA" B.R.C. 1981, AND SETTING FORTH RELATED DETAILS.

G. INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY EMERGENCY ORDINANCE NO. 7782 ADOPTING SUPPLEMENT NO. 107, WHICH CODIFIES PREVIOUSLY ADOPTED ORDINANCE NOS. 7731, 7732, 7753, 7756, 7760, 7762, 7767, 7768, 7769, 7770, 7771, AND 7772 AND OTHER MISCELLANEOUS CORRECTIONS AND AMENDMENTS, AS AN AMENDMENT TO THE BOULDER REVISED CODE, 1981.

Council Member Appelbaum moved, seconded by Karakehian to approve
Consent Items 3A through 3G.

Council Member Morzel offered a friendly amendment to amend item 3D incorporating language recommended by the ACLU. The friendly amendment was accepted.

Vote was taken on the motion to approve Consent Items 3A through 3G as amended. The motion carried unanimously 9:0.

4. **CALL- UP CHECK IN: - 7:03 p.m.**

No interest was expressed.

ORDER OF BUSINESS

5. **PUBLIC HEARINGS: - 7:04 p.m.**

- A. CONSIDERATION OF THE FOLLOWING ITEMS RELATED TO A DEVELOPMENT PROJECT PROPOSED FOR A BOULDER COUNTY PROPERTY IDENTIFIED AS 1000 ROSEWOOD AVENUE AND AN ASSOCIATED CITY OWNED PARCEL/RIGHT-OF-WAY IMMEDIATELY NORTH OF THE SUBJECT PROPERTY:**
- 1. BOULDER VALLEY COMPREHENSIVE PLAN (BVCP) LAND USE MAP DESIGNATION CHANGE FROM MANUFACTURED HOUSING TO MEDIUM DENSITY RESIDENTIAL (#LUR2010-00038) FOR THE 2.26 ACRE SITE AND FROM OPEN SPACE, OTHER TO MEDIUM DENSITY RESIDENTIAL FOR THE 0.06 ACRE PORTION OF RIGHT-OF-WAY NORTH OF 1000 ROSEWOOD AVENUE.**
 - 2. SECOND READING AND CONSIDERATION OF ORDINANCE NO. 7774 ANNEXING 2.26 ACRES OF LAND GENERALLY LOCATED AT 1000 ROSEWOOD AVENUE WITH AN INITIAL ZONING CLASSIFICATION OF RESIDENTIAL MEDIUM – 1 (RM-1). THE ANNEXATION IS PROPOSED WITH A 7.4% OPEN SPACE REDUCTION.**
 - 3. SECOND READING AND CONSIDERATION OF ORDINANCE NO. 7775 VACATING AN APPROXIMATELY 0.06 ACRE PORTION OF RIGHT-OF-WAY NORTH OF 1000 ROSEWOOD AVENUE AND AUTHORIZING THE CITY MANAGER TO EXECUTE A DEED OF VACATION AND QUIT CLAIM DEED PURSUANT TO SECTION 2-2-8, “CONVEYANCE OF CITY REAL PROPERTY INTEREST,” B.R.C. 1981.**
 - 4. SECOND READING AND CONSIDERATION OF ORDINANCE NO. 7776 REZONING AN APPROXIMATELY 0.06 ACRE PORTION OF LAND LOCATED NORTH OF 1000 ROSEWOOD AVENUE FROM INDUSTRIAL – MIXED SERVICE (IMS) TO RESIDENTIAL MEDIUM – 1 (RM-1) ZONING CLASSIFICATION. (#LUR2010-00033)**
 - 5. SITE REVIEW TO PERMIT THE DEVELOPMENT OF 18 DWELLING UNITS (16 SINGLE-FAMILY DWELLINGS AND A DUPLEX UNIT) AND THE CONSTRUCTION OF TWO NEW STREETS (I.E., 9TH STREET AND ROSEWOOD**

AVENUE) AS REQUIRED BY THE NORTH BOULDER SUBCOMMUNITY PLAN. REQUEST INCLUDES PROPOSED MODIFICATIONS TO THE SETBACK REQUIREMENTS OF THE RM-1 ZONING DISTRICT. NINE OF THE UNITS (50% OF THE TOTAL UNITS) ARE PROPOSED AS PERMANENTLY AFFORDABLE HOUSING UNITS. A REDUCTION OF ONE PARKING SPACE FOR EACH DUPLEX IS ALSO PROPOSED (#LUR2010-00039).

Charles Ferro and Karl Guiler provided an introduction to the item outlining the recommended zoning and land use map changes and discussing the proposed 7.4% open space reduction.

Council Member Karakehian asked for clarification on whether he would need to be recused based on owning property in the area. It was determined that he did not need to recuse.

Mary Roosevelt, CEO of Thistle Communities, spoke in support of the 1000 Rosewood annexation. She spoke to Thistle's successful development of affordable single-family homes in Boulder and indicated it would like to continue this in the Rosewood neighborhood.

Dann Rotner, an architect with Coburn Development, spoke in support of the Rosewood annexation and outlined various aspects of the project recommendations. He noted the North Boulder Subcommunity Plan was a driving factor in the project.

There being no speakers the public hearing was closed at 7:55 p.m.

Council Member Gray moved, seconded by Becker to:

1. Approve BVCP land use map change from Manufactured Housing to Medium Density Residential for the 2.26 acre site and from Open Space, Other to Medium Density Residential for the 0.06 acre portion of right-of-way to be transferred to the 2.26 acre site.
2. Adopt Ordinance No. 7774 annexing 2.26 acres of land generally located at 1000 Rosewood Avenue with an initial zoning classification of Residential Medium – 1 (RM-1).
3. Adopt Ordinance No. 7775 vacating an approximately 0.06 acre portion of right-of-way north of 1000 Rosewood Avenue and authorizing the city manager to execute a deed of vacation and quit claim deed pursuant to section 2-2-8, "Conveyance of City Real Property Interest," B.R.C. 1981.
4. Adopt Ordinance No. 7776 rezoning an approximately 0.06 acre portion of land generally located north of 1000 Rosewood Avenue from Industrial-Mixed Service (IMS) to Residential Medium – 1 (RM-1) zoning classification.
5. Conditionally approve the Site Review application, incorporating the staff memorandum and the attached Site Review Criteria Checklist as findings of fact, subject to the conditions of approval on page 20 of the staff memorandum.

The motion carried unanimously, 9:0.

6. **MATTERS FROM THE CITY MANAGER:**

A. BOULDER'S ENERGY FUTURE: 2011 WORK PLAN. – 7:58 P.M.

Community Planning and Sustainability Director David Driskell provided a verbal presentation and outlined the Key Work Plan items and milestones for the coming year.

Council Member Morzel clarified that some elements of the plan would continue through a typical RFP process and others would be part of an alternative process such as the Boulder Energy Innovations competition described by Mr. Driskell.

Council Member Gray clarified that staff had requested Xcel's proposal by April 15, 2011. Mr. Driskell suggested staff would like to have all proposals prior to May so they could be analyzed together prior to Council's recess in June.

Council Member Karakehian raised concern that he wasn't sure what to expect from an Xcel proposal and wondered if staff had asked for anything specific. Mr. Koehn responded that it was hard to tell but whatever came back would be different than what had already been discussed with Xcel during the Franchise negotiations.

Mayor Osborne noted that Council approving a principles and purpose document would help define the project. David Driskell clarified that two study sessions were scheduled in late spring and summer for Council Members to review and discuss the proposals.

Council Member Ageton asked how the outside competition work would be integrated with the work plan items in the chart and within the proposed timeframe. Some of those innovators might want to know the outcome of the work plan items or baseline data that staff was still gathering. Mr. Driskell commented that the team was expanding, the project schedule and competition idea being looked at in more detail, and additional resources were being brought in. Ms. Ageton would also like to understand the costs better.

Council Member Appelbaum shared many of Council Member Ageton's thoughts. Specific to the competition, he was concerned there would not be enough specific data for individuals to provide those wanting to submit proposals. Overall, he suggested the business element seemed to be missing as this was ultimately a business decision.

Several Council Members agreed that there was still four years left after November 2011 and the project didn't need to be rushed.

Jonathan Koehn then spoke in detail to the creation of three groups, the Community Stakeholder Advisory Committee, the Local Technical Working Group and a Technical Experts Review Panel.

Council Member Ageton commented that the senior sector of the population seemed to be missed and she wasn't sure why the non-english speaking residents were singled out.

Council Member Morzel spoke regarding the Community stakeholder group and noted it was fine to have the group but the meetings should be open for anyone to participate. This would help to avoid any pre-determined outcome. She liked Council Member Ageton's comments regarding the senior population being left out. She also commented that she had a difficult time turning over the appointments to the city manager for a council directive and wanted the appointments to be made by council.

Council Member Gray suggested including people from CU and the renewables sector as she outlined in a previous e-mail to Mr. Driskell.

Council Member Appelbaum thought the City Manager should make the appointments to the committees and raised concern that some of the suggested groups might have more of a regional or national focus rather than local. He also suggested not selecting an elected official from the County so the playing field was equal and choosing someone with a financial background.

Council Member Karakehian suggested a representative from Downtown Boulder and 29th Street be included. He supported the City Manager appointing the members.

Susan Osborne commented that she was boggled by the community stakeholder group and was worried about burning people out without getting to fundamental issues. She encouraged staff to be cautious.

Deputy Mayor Wilson raised concern that there may not be enough time to analyze municipalization properly. He hoped good ideas would come forward from the process and determine what, if anything, could go on the November ballot.

Council Member Cowles thought the Technical Committee would be the most important tool in the process. He liked the localization concept that was previously presented to Council.

A. DISCUSSION REGARDING THE REAL ESTATE ACQUISITION PROCESS FOR OPEN SPACE/MOUNTAIN PARKS PURPOSES. – 9:20 P.M.

Jim Schmidt with Open Space and Mountain Parks provided the presentation on the item and outlined the current real estate acquisition process the city goes through when considering a property. He noted many properties staff pursued were not currently on the market so the process began a bit different than a typical real estate purchase.

Council Member Cowles asked about a specific property purchase where staff was working with Boulder County (the Loukonen property). Open Space Director Mike Patton commented that in that case, staff was unable to reach a price agreement with the County.

Council Member Osborne clarified that the Letter of Intent (LOI) was not binding but unique and high profile properties would come to council earlier. A property purchase could be stopped even though a Letter of Intent had been signed.

Council Member Appelbaum asked who defined what was considered unusual or unique. He indicated Council did not know what questions to ask because they didn't know the discussions were happening in many cases.

Council Member Becker commented that the first acquisition that came before council after she was elected, the memo was thin and she had no idea what the intent was for the property (i.e. what was the real value to the community, what's in the LOI that wasn't included in the council memo and what is the expectation of the parties that was not included in the memo). She suggested she'd like to see more of what was occurring behind the scenes.

Council Member Morzel suggested there was already too much on the Consent Agenda and that short changed the community. Council used to go on field trips and was a great opportunity to

learn more. Confidential letters through the City Attorney's office would be another possibility. She would like more detailed presentations and more trips but thought generally the process worked pretty well as it is.

Council Member Ageton expressed that the issues were needing more information and more involvement in those unique situations that didn't quite fit the guiding documents. She agreed with Council Member Appelbaum that staff was spending a lot of time and resources without knowing whether council would approve.

Mayor Osborne suggested perhaps a study session would be useful to discuss the matter further.

Council Member Gray suggested a study session with the Open Space Board would be great at setting the groundwork. Tours of general areas would be useful as well.

Council Member Cowles did not think study sessions were necessary but rather just more information. He suggested Council should consider running another executive session campaign but maybe this time limiting it to open space acquisitions. He felt the current program was running well.

Council Member Becker liked the idea of confidential memos under the Attorney Client privilege. She then asked about public input indicating she would like to know what the community thought.

Mayor Osborne noted that scheduling a study session would allow time for staff to draft some proposals.

Council Member Karakehian thought the issue was more about communication. He did not want to see the city over pay for properties because it negotiated in public. An information packet item and then further council discussion should suffice; study sessions were not necessary.

Staff would begin with an information packet item and CAC would guide when/how a discussion needed to take place.

Diagonal Plaza-10:15 p.m.

Council Members Appelbaum and Becker volunteered for the ULI Technical Advisory Panel on Thursday, January 20, 2011.

7. **MATTERS FROM THE CITY ATTORNEY:** - None.

8. **MATTERS FROM MAYOR AND MEMBERS OF COUNCIL:**
POTENTIAL CALL-UPS:

1. **LANDMARK ALTERATION CERTIFICATE TO DEMOLISH A STORAGE SHED AND IN ITS PLACE CONSTRUCT AN 807 SQ. FT., ONE AND ONE-HALF STORY, TWO CAR GARAGE AT 440 ARAPAHOE AVENUE, PER SECTION 9-11-18 OF THE BOULDER REVISED CODE, 1981 (HIS2010-00224). INFORMATION PACKET DATE: JANUARY 13, 2011. LAST OPPORTUNITY FOR CALL-UP IS JANUARY 18, 2011. APPROVED BY THE LANDMARKS BOARD 5-0 WITH CONDITIONS. – 10:21 P.M.**

No action was taken on this item.

B. CONSIDERATION OF A MOTION TO SCHEDULE THE COUNCIL RECESS FROM JUNE 22 THROUGH JULY 17, 2011. – 10:21 P.M.

Mayor Osborne commented that CAC discussed moving the May 31 study session to June 9 and perhaps using June 16 for another study session to help provide flexibility. Council agreed to check-in again in May when staff and Council had a better idea of the work schedule.

Council Member Appelbaum moved, seconded by Ageton to suspend the rules and continue the meeting at 10:30 p.m. The motion carried unanimously, 9:0.

C. UPDATE OF NEGOTIATIONS ON REGIONAL VISION FOR NORTH WESTERN JEFFERSON COUNTY. – 10:37 P.M.

Council Member Morzel reported that staff from Boulder, Boulder County and Jefferson County were scheduled to meet again in the coming weeks.

D. UPDATE REGARDING RTD NORTHWEST RAIL. – 10:37 P.M.

Mayor Osborne commented that RTD had put three options before the Board and each included 90 million for US 36, which was significant. Bids would go out in July. RTD would meet with Burlington Northern to talk about taking the Northwest Rail to the next step and would include in RTD's 2012 budget some funds to do a preliminary engineering report.

9. PUBLIC COMMENT ON MATTERS:

None.

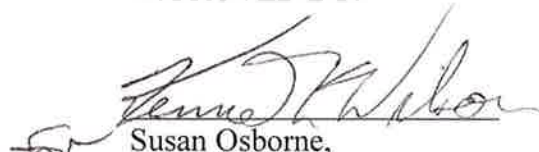
10. FINAL DECISIONS ON MATTERS:

None.

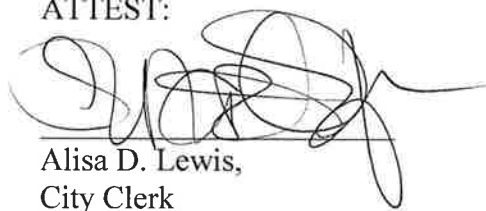
11. ADJOURNMENT

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED AT 10:40 P.M.

APPROVED BY:


for Susan Osborne,
Mayor

ATTEST:


Alisa D. Lewis,
City Clerk